

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 15, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 15, 2007, at 2:10 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; Elizabeth Bishop; Bill Johnson; Ron Marnell; Harold Warner, Jr.; Bob Aldrich; Bud Hentzen; Hoyt Hillman; Morris K. Dunlap; Michael Gisick; M.S. Mitchell and Don Sherman. John W. McKay, Jr. was not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the February 1, 2007 MAPC minutes.

MOTION: To approve the February 1, 2007 MAPC minutes.

MITCHELL moved, **ANDERSON** seconded the motion, and it carried (12-0).

❖ SUBDIVISION ITEMS

2. Consideration of Subdivision Committee recommendations from the meeting of February 8, 2007.

- 2-1. **SUB 2006-107: Final Portion of Overall Preliminary Plat -- CHANTILLY PLACE ADDITION,** located on the southeast corner of Pawnee and Webb Road.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and LC, Limited Commercial (Lots 1 and 2, Block A). The residential portion of the property will be converted to SF-5, Single-Family Residential upon annexation.

This final plat is a portion of the overall preliminary plat approved for the site and represents the first phase of development. The street layout and lot configuration is consistent with the preliminary plat.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the residential portion of the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of City water and sanitary sewer (main and lateral) to serve the lots being platted. The corner commercial lots need to be included in the benefit district for the water extension or else will incur in lieu of assessment fees since this site was not assessed for the water mains in Pawnee or Webb.
- C. The 20-foot drainage and utility easement adjoining Reserve H needs to be extended to the west line of the plat.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- E. Per City Engineering, the drainage plan is approved. An off-site drainage easement is needed.
- F. The plat needs to denote location dimensions for gas line easements.
- G. County Surveying advises there is a stray iron on the north line of reserve H.
- H. The City needs to annex Webb & Pawnee adjacent to plat.
- I. The plat's text shall include the language that the owners of the reserves shall bear the cost of any repair or replacement of improvements within the Reserves and resulting from street construction, repair, or maintenance.
- J. Per Traffic Engineering, left-turn lanes are needed at the major openings to the commercial property.
- K. The plat proposes two street openings to Webb Road and one street opening to Pawnee. Two access openings are proposed along both Pawnee and Webb Road for the commercial property. Per Traffic Engineering, the access controls are approved. The dimensions (297') for complete access control on Pawnee needs to be corrected.
- L. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- M. Since Reserve C includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between Reserves F, G, H and the adjoining driving surface for the arterials.

- O. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- Q. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- R. Per GIS, the street names are approved.
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- T. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve items 2-1, 2-3, 2-4 and 2-5.

JOHNSON moved, **ALDRICH** seconded the motion, and it carried (12-0).

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- 2-2. SUB 2006-100: Final Plat -- WINDING LAKE ESTATES ADDITION**, located on the southwest corner of 45th Street North and Hoover Road.

Note: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and LC, Limited Commercial (Lot 73, Block D). The residential portion of the property will be converted to SF-5, Single-Family Residential upon annexation.

The applicant intends to submit the final tracing with the revised plat name of Edge Water Addition.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the residential portion of the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water (main and lateral) to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. Per **City Engineering**, the drainage plan is approved. Off-site drainage easements and off-site sewer easements are needed.
- E. Per the recommendation of **Sedgwick County Engineering and City Engineering**, the Subdivision Committee approved the paving of 45th St. North.
- F. The plat's text shall include the language that the owners of the reserves shall bear the cost of any repair or replacement of improvements within the Reserves and resulting from street construction, repair, or maintenance.
- G. Boynton Ct. near Lot 83 Block A appears to be 64' wide.
- H. The Southern Star Pipeline easement needs to be located and setbacks denoted, if any.
- I. A bearing is needed on the northeast line of Lot 68, Block D.
- J. Dimensions are needed on the west line of reserve E.
- K. As drainage will be directed onto K-96, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- L. Prior to City Council review, the applicant should meet with **City Engineering** to discuss an agreement regarding construction of an interchange on K-96 at Hoover.
- M. The plat denotes complete access control along Hoover except for one street opening. Complete access control has been platted along 45th St. North except for one street opening and one access opening for Lot 68, Block D. Per **Traffic Engineering**, access controls have been approved.
- N. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- O. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- P. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- Q. Since Reserve I includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- R. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected

lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- S. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- T. Per **GIS**, Ridgeport and Ridgeport Ct need to be replaced with Ridge Port and Ridge Port Ct. Lantana and Boynton need to be replaced with new names.
- U. **County Engineering** has requested a meeting with the applicant to discuss potential off-site right-of-way along 45th St. North adjoining Lots 9, 10, and 11, Block A.
- V. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- W. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- X. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Y. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Z. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- AA. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- BB. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- CC. Perimeter closure computations shall be submitted with the final plat tracing.
- DD. **Westar Energy** has required additional easements.
- EE. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the

disc.

NEIL STRAHL reported that the item had been deferred.

2-3. **SUB 2007-05: One-Step Final Plat -- MAPLERIDGE ADDITION**, located on the southeast corner of Maple and Ridge Road.

NOTE: This is a replat of the King's Maple Addition, King's Maple 2nd Addition and the King's Maple 3rd Addition. Protective Overlays (P-O#63, 69, 70) were also approved for this site addressing off-site signs, lighting, building height, uses, and screening.

STAFF COMMENTS:

- A. Water and sewer services are available (but sewer is only available at a manhole in the extreme southeast corner.)
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. As per City Engineering, the drainage plan is approved.
- D. Per Traffic Engineering, one opening is permitted along Maple which shall be located a minimum of 120 feet from the intersection. Two rights-in/out openings are permitted along Ridge, the northernmost opening being a minimum of 75 feet from the intersection.
- E. A block number or letter and lot number shall be denoted on the face of the plat.
- F. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlays and their special conditions for development on this property.
- G. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- H. On the final plat tracing, the signature line for the City Clerk needs to be revised to reference "Karen Sublett."
- I. A legend is needed to include property alignments.
- J. County Surveying advises that the basis of bearing needs to be defined.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve items 2-1, 2-3, 2-4 and 2-5.

JOHNSON moved, **ALDRICH** seconded the motion, and it carried (12-0).

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- 2-4. SUB 2007-06: One-Step Final Plat -- CORNEJO EAST SECOND ADDITION**, located on the east side of Webb Road and north of Central.

NOTE: This is a replat of a portion of the Family Golf Center Addition and the Cornejo East Addition.

STAFF COMMENTS:

- A. City Water and Sewer Department advises that water and sewer is available to serve all the lots, except lot 2. The applicant shall guarantee the extension of sanitary sewer and City water to Lot 2. City water and sewer Perimeter easements may be needed to facilitate future sewer extension to serve the houses on Beech north of Chamberlin. The owner should note that the existing water main on Chamberlin is 2 1/2" PVC and won't support services larger than 1" or fire hydrants.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. Per City Engineering, the drainage plan is approved. A Reserve needs to be platted for detention. A cross-lot drainage agreement is needed.
- D. The plat proposes four access openings along Webb Road. Per Traffic Engineering, the access controls are approved.
- E. A cross-lot access agreement shall be submitted that permits cross-lot access for the benefit of Lot 2.
- F. With the approval of this plat, a waiver has been approved of the lot depth to width ratio of the

Subdivision Regulations for Lot 2. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.

- G. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov. Please include the name of the plat on the disc.

MOTION: To approve items 2-1, 2-3, 2-4 and 2-5.

JOHNSON moved, **ALDRICH** seconded the motion, and it carried (12-0).

- 2-5. **SUB 2007-07: One-Step Final Plat -- DEER RUN ESTATES ADDITION**, located on the southeast corner of 125th Street North and 151st Street West.

NOTE: This unplatted site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Bentley Area of Influence.

STAFF COMMENTS:

- A. City Water and Sewer Department advises that although the plat is outside their service area, there is an existing water department well and pump house at the northwest corner of the plat within Lot 3 and the owner is restricted as to what can be done within that easement. If the owner has any questions, he can contact Jerry Blain at 268-4578 or Mike Carney at 269-4764.
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- C. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a Safe Yield Analysis must be provided to Sedgwick County Code Enforcement to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering has approved the drainage plan. The final plat tracing shall include a 30-foot drainage and utility easement between Lots 2 and 3.
- F. County Engineering has requested additional right-of-way along both arterials. The Access Management Regulations requires a 60-foot half-street right-of-way width along rural arterials. The Regulations also require a 75-foot arterial intersection right-of-way and an additional 25-foot x 25-foot corner clip at the intersection.
- G. The applicant proposes two access openings along each arterial. County Engineering will meet with the applicant to review access controls. The final plat tracing shall reference the dedication of access controls in the plat's text.
- H. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. GIS has requested the streets be labeled as "N 151st St W" and "W 125th St N".
- J. A copy of City of Wichita water easement shall be provided. The applicant should meet with City of Water and Sewer Department to clarify the terms of this instrument.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve items 2-1, 2-3, 2-4 and 2-5.

JOHNSON moved, **ALDRICH** seconded the motion, and it carried (12-0).

BISHOP in at 2:15 p.m.

DUNLAP asked why item 2-2 was being deferred.

STRAHL stated that the applicant was working on item L, which was the requirement regarding the interchange at Hoover. He said the applicant has been working with representatives from the Kansas Department of Transportation (KDOT) to resolve the issue prior to presenting it to the Planning Commission.

MOTION: To defer item 2-2.

ALDRICH moved, **DUNLAP** seconded the motion, and it carried (13-0).

❖ **PUBLIC HEARINGS**

- 3. **Case No.: CON2006-55** – Juan Saenz and Jack R. Hunt Realtors (Owner) Request Conditional Use permit for a nightclub in the City on property zoned "GC" General Commercial on property described as;

The West 180 feet of Lot 1, Burnworth - Sampson Addition, Wichita, Sedgwick County, Kansas Generally located south of I-235, on the east side of Seneca Avenue.

BACKGROUND: The applicant is requesting a Conditional Use for a nightclub, on a 1.43-acre western portion of Lot 1, Burnworth – Sampson Addition. All of the approximately 23-acre Lot 1, Burnworth – Sampson Addition, including the site, is zoned "GC" General Commercial. The building on the site proposed to house the nightclub is currently vacant, but in the past has been a restaurant/drinking establishment (DER license), which limits its liquor sales to 50% of the total sales. A nightclub allows unlimited liquor sales, regardless of whether or not there are food sales. The applicant proposes to provide live music or a DJ and dancing for patrons, which is considered a nightclub in the city: Art.II, Sec.II-B, 9(b) of the Unified Zoning Code (UZY). Nightclubs are a permitted use in the "GC" zoning district, but require

a Conditional Use when within 200 feet of church or a place of worship, public park, school, or residential zoning: per Art.III, Sec.III-D(w) of the UZC. The site abuts a northwest portion of a manufactured home park, zoned "MH" Manufactured Housing, thus the Conditional Use.

The south side of the site abuts a portion of the above-mentioned 19.41-acre "MH" zoned manufactured home park, which shares a large sand pit (all in the Burnworth – Sampson Addition) with the site. This sand pit abuts the east side of the site. The abutting manufactured home park is abutting another 22.76-acre "MH" zoned manufactured home park. Other development south of the site, across a drainage channel and along the east side of Seneca Street to MacArthur Road, include a vacant concrete pad – parking area that appears to have been a business, single-family residences and a bar. All of these properties are zoned "LC" Limited Commercial, except for an isolated "SF-5" Single-family Residential zoned lot, located in the middle of the "LC" zoned properties. Development and zoning west of the site across Seneca (north to south), include a vacant manufactured home dealership (with a "MH" zoned manufactured home park abutting its west side), a vacant office/gas station, all zoned "LC," a "GC" General Commercial zoned self storage facility, and a small strip building (with a restaurant and two bars), a free standing bar, an apartment building, and a Westar substation, all zoned "LC. I-235 and its interchange abut the north side of the site. The design of the Seneca – I-235 interchange puts I-235 above the site, effectively buffering the "SF-5" zoned USD-259 playing fields, located north of I-235, approximately 580-feet from the site. There is also a "SF-5" zoned National Guard facility and headquarters of the 2nd Battalion, 137th Infantry Regiment, 218th Brigade, north of I-235

Parking appears to be an issue on two levels. As shown on the site plan, the 5,452-sqaure foot building, which will house the proposed nightclub, shares parking with the leasing office of the abutting manufactured home park. The site plan states that there are 95 parking spaces, as marked and counted. However the site plan shows only 74 parking spaces. The Fire Marshall has posted a maximum capacity of 190 people for the building, which means the required parking for the proposed nightclub is 95 spaces. The applicant has not given proposed days or hours of operation for the nightclub. This is significant, as the proposed nightclub cannot take away the 13 required parking spaces of the 3,240-sqaure foot leasing office. The proposed nightclub's days and hours of operation could lap over into the leasing office's operation times and thus prevents the nightclub from being able to utilize all of the available parking spaces. The applicant can seek to remedy it by applying for an Administrative Adjustment or a Variance. A revised site plan is also needed to resolve the difference in the number of parking spaces shown as opposed to how many it states are there. The site plan proposes to place trees in the Seneca Street right-of-way, which would have to be approved by the Traffic Engineer. No other proposed landscaping is shown. The site plan shows existing signage and what appears to be outside pole lights. The site plan also shows a beach area leading to the sand pit and what appears to be a deck/patio on the east side of the building overlooking the beach. No solid screening is shown where the site abuts the "MH" zoned manufactured home site, no trash receptacles are shown, no outside seating is shown and no outside activity area is shown.

CASE HISTORY: The site was platted as a part of the Burnworth – Sampson Addition, which was recorded with the Register of Deeds July 29, 1964. Per the records as shown on the City's GIS, the building for the proposed nightclub was built in 1960. DAB IV considered the Conditional Use request at their February 7, 2007 meeting. There were numerous citizens at the meeting protesting the Conditional Use. Concerns included noise, traffic, and unruly behavior. The Wichita Police Department had several officers at the meeting, who stated that the applicant has been sited several times for operating illegally and had seemingly exhibited a disregard for the law and the neighborhood. The Police also expressed a concern over possible gang activity, underage drinking and generally disruptive behavior. The applicant and his agent failed to attend the DAB meeting. The DAB voted, unanimously, to deny the Conditional Use.

ADJACENT ZONING AND LAND USE:

NORTH:	Public ROW	I-235
SOUTH:	"MH," "LC"	Manufactured home park, drainage channel, vacant site, single-family residences
EAST:	"GC"	Sand pit
WEST:	"LC," "GC"	vacate site, vacate building, self-storage, bars, restaurant

PUBLIC SERVICES: The site has one drive onto Seneca Street, which it shares with the abutting manufactured home park. Seneca is a flared four-lane arterial street at this location, designed as part of the I-235 interchange. The site has no direct access to the I-235. The current traffic volume along this portion of Seneca is approximately 14,000 vehicles per day. Projected 2030 traffic volume is 18,344 vehicles per day. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The site is identified by the Land Use Guide of the Comprehensive Plan as appropriate for "Local Serving Commercial" development. This category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Comprehensive Plan Objective II.B. is to "Minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments."

The Unified Zoning Code requires a Conditional Use for a nightclub when it is located within 200 feet of a church or a place of worship, public park, school, or residential zoning. The site is not currently permitted for entertainment, including dancing for patrons. Approval of a nightclub Conditional Use would introduce live entertainment, or music by a DJ, dancing by patrons, and unlimited alcohol sales on this site.

RECOMMENDATION: Along this short (less than 1/3-mile) section of Seneca, between I-235 and MacArthur Road there are at least four existing bars, as listed uses on the City's GIS mapping system. Introduction of a nightclub at this site would not be introducing a new use into the area. The proposed nightclub site has in the past been a restaurant/drinking establishment (DER license), which limits its liquor sales to 50% of the total sales. The applicant is now requesting a Conditional Use for a nightclub, which allows unlimited liquor sales, regardless of whether or not there are food sales. The Conditional Use would also allow dancing, live music or music provided by a DJ. Because of the site's proximity to the manufactured home park, a key consideration would be prohibiting outside loud speakers and all entertainment, as well as the required solid screening. A typical issue with a site that is entirely paved over for parking, such as this site, is the lack of available space for landscaping. Landscaping can be placed in ROW with approval from the Traffic Engineer. Typically a covenant is filed which identifies the owner of the site as the owner of the landscaping, as being responsible for its maintenance and replacement, obtaining a minor street permit to put in irrigation and to absolve the City of any liability if the landscaping and irrigation system is removed for improvements to the street right-of-way. The question of available parking must be resolved and if the required parking is not available the applicant can seek resolution through either an Administrative Adjustment or a Variance. Therefore based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be APPROVED, with the following conditions:

- (1) No outside loudspeakers or entertainment, including dancing.
- (2) A revised site plan will be provided showing existing screening and the required solid screening where the site abuts the "MH" zoned manufactured home park, the location of a screened dumpster, the outside deck and any proposed sitting there. If approved by the Traffic Engineer the site plan will identify the proposed trees, one every 40-feet, located in the Seneca Street right-of-way, and reference a recorded covenant, with the Register of Deeds, that identifies the owner of the site as the owner of the landscaping, as being responsible for its maintenance and replacement, of obtaining a minor street permit for irrigation and absolving the City of any liability if the landscaping and irrigation system is removed for improvements to the street right-of-way. The revised site plan will also show all available parking. If the required parking is not available the applicant must apply for an Administrative Adjustment or a Variance to resolve the issue. The revised site plan will be submitted within 60-days of approval of the Conditional Use, by the MAPC or the governing body or the Conditional Use request will be considered null and void.
- (3) Signage will be per the sign ordinance for the "GC" General Commercial zoning district.

- (4) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The requested Conditional Use will be one of five drinking establishments/nightclub along this 1/3-mile long portion of Seneca Street. This section of Seneca also has approximately 37-acres, of "MH" zoned manufactured home parks, located along its north end, along I-235, and sitting behind the "LC" zoned properties that front Seneca. These "LC" zoned properties include the other residential development in the area, an apartment complex and a few single-family residences, plus a Westar sub-station and a small restaurant. There is a "GC" zoned self-storage site and a "SF-5" zoned lot, with a single-family residence on it.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GC" General Commercial, which accommodates office and retail uses, including a DER, the site's former use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The unlimited liquor sales, the noise from the music and dancing, the hours of the nightclub and its parking all could have a detrimental impact on the nearby "MH" zoned residences. The conditions of the Conditional Use will help minimize the negative impact.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the site and the area as appropriate for "Local Serving Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Comprehensive Plan does not contain guidelines specifically for nightclubs, drinking establishments or taverns. However, the Plan does have an objective to minimize detrimental impacts of higher intensity land uses located near residential living environments. The conditions of the Conditional Use address this objective of the Plan.
5. Impact of the proposed development on community facilities: It is possible that approval of this request could result in an increased demand for police services.

BILL LONGNECKER, Planning staff presented the staff report.

BISHOP referred to the DAB report, which notes that the adjacent manufactured home park shares access onto Seneca with the proposed nightclub site. She stated that the report comments that this limited access will create access and parking problems. She asked staff to show the access on the map.

LONGNECKER showed the shared access onto Seneca, and also pointed out another access point from the manufactured home park onto MacArthur. He commented that the access onto MacArthur went through another manufactured home park, south of the park in question, and that the primary entrance for the club and the abutting manufactured home park was off of Seneca.

JOHNSON asked if the establishment could serve food and provide entertainment?

LONGNECKER replied that a Cabaret license would allow the applicant to provide entertainment and food, and that a Cabaret was not defined in the Unified Zoning Code, but was defined by the Office of Central Inspection licensing process. A Cabaret could also sell alcohol as long as sales did not exceed 50% of the money generated by the establishment. A nightclub is defined as having unlimited alcohol sales and providing entertainment, including dancing provided by the employers of the establishment or

for the patrons of the establishment. A tavern/nightclub requires a Conditional Use if it is located within 200 feet of residential zoning, a church, a school, or a public park.

ALDRICH asked why staff would recommend approval of the application when the site plan shows 74 parking stalls, but the Fire Marshall indicates that 95 stalls are required?

LONGNECKER said staff advised the applicant that they would need to apply for a variance or an administrative adjustment to address the parking.

GISICK commented on the reported illegal activity mentioned in the DAB memorandum. He asked if that activity was documented? He requested comments from the Wichita Police Department staff present at the meeting.

OFFICER CARLSON, WICHITA POLICE DEPARTMENT, reported that the Police have had problems at this establishment since July and August of 2006. He said over the summer they have received numerous complaints from citizens who live in the mobile home park, and that one resident who lives 150 feet from the club won't stay in their home on the weekends. He said incidents include gang violence; intoxicated people knocking on doors of area residents; and that residents feel unsafe due to activities at the club. He commented that the Police haven't had similar problems with the drinking establishments across the street.

JOHNSON asked if the club was operating right now?

OFFICER CARLSON commented that it had been operating; however, it was closed last weekend.

DUNLAP said the location has always been some kind of drinking establishment. He asked what has changed? Is it the type of club, the management, or what?

OFFICER CARLSON said it was his perspective that the current owner/management won't comply with the simplest ordinances.

OFFICER JONKER, WICHITA POLICE DEPARTMENT said problems included non-compliance with licensing. He added that the club catered to a younger crowd.

MARNELL asked if the police know of illegal activity, why haven't they dealt with it?

OFFICER JONKER reported that the establishment has been cited a number of times and that several different cases were currently tied up in the court system.

SHERMAN asked if the citations were misdemeanors or felonies?

OFFICER JONKER said there were a few felony weapons charges; miscellaneous drinking related charges; not complying with City licensing requirements and other issues involving juveniles.

SHERMAN asked how many pending cases involved the establishment?

OFFICER CARLSON said the club has been cited at least 15 times and that at least 8 cases were pending in court.

SHERMAN asked how long the club has been in business?

OFFICER CARLSON said since July 2006 until now, about six months.

ALDRICH said the staff report indicates the building is vacant.

LONGNECKER said that this statement was based on what was stated by the applicant at the time of the application. He also noted that when inquiries were made last summer about a Conditional Use for the building that an individual and the owner said it was vacant. He added that it was his impression, per comments made by the Police, was that the applicants were currently operating illegally.

LOUIS MARTINEZ, ASSISTANT MANAGER, ACAPULCO, 713 S. Washington, commented that the management has never been notified about the noise complaints. He said they have had fights like any other bar but that they have security to prevent fights inside the club. He said it is a bar and restaurant that has recreational use for the kids with the lake for swimming for parents, kids and private parties. He commented that they applied for the necessary permits in December 2006, but that there was a delay because City staff lost the payment. He commented that the cops have been at the place every weekend since he started to work there in January. He said minors are allowed, but they are "marked."

ALDRICH asked if they were operating illegally?

MARTINEZ said they have a restaurant permit. He said they have big screen TV's so patrons can watch football and added that they want to have music. He said it was that kind of a restaurant.

BISHOP asked if they have a permit and are licensed as a restaurant serving alcohol within the proper parameters, why have they been cited by the Police 15 times?

MARTINEZ said he doesn't know what the problem is. He said they are trying to get this permit, but he doesn't know what is going on with the citations.

BISHOP asked if the application were denied, would they go on operating as a restaurant?

MARTINEZ said yes.

SHERMAN asked if they could serve food and liquor now, why they want to apply for this license?

MARTINEZ said they want to be able to rent the facility for private parties and weddings. He added that a DJ station is considered live entertainment and they need the permit for that also.

M.E. NANSEL, 3840 S. SENECA, LOT D-33, said he lives less than a city block from this establishment. He said it is not the type of business for a child to walk by to get to school and commented that there is an elementary school at the other end of the mobile home park. He said two years ago there was a stabbing at the location and predicted that it will happen again. He said he drives in very slowly because of the pedestrians that may stumble into his pathway and also because of the trash. He said he and his wife could plainly hear the music and noise from their porch. He said they are allowed to use the lake in their lease; however, when his wife took their grand children to swim an individual on the balcony chewed out our their grand children. He said he hoped that the MAPC would put themselves in his place. He said he couldn't afford a conventional home, but that he valued his manufactured house as much as a conventional home. He concluded by saying that if the MAPC members had to live at the Lake Side Mobile Home Park that they would not like to be there.

WARREN KRUEGER, 5471 S. INDIANAPOLIS, said he worked for Keazac Security, which provided security for the mobile home park. He said they have received several calls concerning urinating in front of the mobile homes, drug deals, and large parties in the parking lot. He also commented that he believed the club did not even have trash service because of the bags of trash that were left sitting against the privacy fence over the weekend. He said they do not want the club there because it is a headache for them; they have to spend 2-3 hours a night at the mobile home park on the weekends because of the club. He said he has also seen up to five Wichita Police cruisers there and that they had to call for more officers because the crowd was too large for them to handle. He added that he has also witnessed known gang members at the location and arrests for gun possession.

IRENE ARMSTRONG, 1109 GREENFIELD, explained that a concerned citizen who lives on Carrie Lane across the street from the club called her because they were worried about their safety and the safety of children in the area. She said since the club has come in, there have been rumors that teenage kids can buy drugs and alcohol there and that is how she got involved. She said she canvassed the manufactured housing owners and not one of them was in favor of the zone change. Comments she received were: can't sleep until 3:00-4:00 a.m. in the morning; one lady would not stay home on weekends; can't get through the mass of vehicles because they are parked every which way;

and drunks coming to my house late at night knocking on my door. She said there was speculation about underage drinking, drugs and gang activities. She said she had several concerns regarding the staff report including that the windows on the one side of the club allow more noise to escape and that was the side that faced the mobile home park. She was also concerned about traffic using I-235 and how any firearms would be fired towards the road. She said a similar zoning change along Seneca was rejected because of residential homes nearby. She said although manufactured home owners own their homes and lease the ground the homes are sitting on, they deserve the same safety and added that the manufactured homes were there before the club. She said before a change is made, let the applicant "clean up their act" and perhaps come back to the MAPC in a year. She concluded by informing the Commission that she believes the applicant's liquor license has been suspended since the DAB meeting.

(Did not sign in and not recognizable on tape) owner of the Acapulco Club, said before they actually opened the club they were vandalized and four windows were shot out. She asked if there were drugs, guns and stuff like that, why aren't the police doing their job? She explained that she yelled at the kids from the balcony because she was worried about their safety and did not see the adult supervising them standing under the balcony. She said she understood that the mobile home residents are able to use the lake, because they pay the liability insurance on the lake. She said they have been vandalized four more times and she thinks it is either people who have previously worked there or people who don't want them there. She said she was asking the MAPC to give them an opportunity. She said their liquor license got suspended because of the burglary and vandalism and because paperwork was stolen. She said they are not now a nightclub, but are a restaurant throughout the day. She said it was slow now because it is wintertime and that in the summer time back in July business started picking up. She said the people that leased to them required them to lower the music at 10:00 p.m. because of neighboring residents. She said she could understand that and she wouldn't like it if she were living there.

ALDRICH clarified that club patrons have access to lake.

BISHOP clarified that the owner knew and understood the difference between a restaurant that has a license to serve liquor and a nightclub in the City. She commented that according to the Police Department; they have been operating a nightclub for some time.

The club owner commented that they were cited when they rented the building out for a private party. She said they need a Dance Hall License to be able to rent the building for that activity so they were cited for music and live entertainment.

BISHOP commented that she was concerned that if the MAPC decided to deny the application, would they be able to operate the establishment as a restaurant, with alcohol as a portion of the sales?

The club owner said they would like to run it as a club but if not, they would run it as a restaurant or shut down the business. She said the previous club called the Chalet rented out the building for parties.

TAPE 1 SIDE 2

Responding to a question, from **ALDRICH** concerning an already booked wedding, she said they would come to City and ask for a permit to have the party. She said they won't be able to sell the liqueur, but with a permit, the client can buy their own liquor and serve it free.

SHERMAN asked if they were open right now for business.

The club owner said they shut down last weekend because their liquor license was suspended by the State. She said when the building was vandalized, paperwork and the computer were messed up and there were questions about the taxes that were sent to State. She added that pending cases was the Dance Hall License. She also added that when they got the red and white sign, they thought that was a "temporary permit" but were cited for the same thing again.

MARTINEZ said he was trying to do his job and work as legal as they can.

DUNLAP asked Mr. Martinez if he was the security for the club?

MARTINEZ said no, that they have three security guards.

MOTION: To recommend denial of the application.

SUBSTITUTE MOTION (Anderson): To approve the application, noting that the property had always been some type of a club.

SUBSTITUTE MOTION: Dies for lack of a second.

ALDRICH moved, **BISHOP** seconded the motion, and it carried 10-2.

ANDERSON and **MARNELL** – No.

BISHOP commented that this establishment used to be a restaurant and that restaurant use is appropriate because it served as an amenity. She said she felt a nightclub was so wrong and said she couldn't believe staff recommended approval of the application.

ANDERSON said they have other problems, but that the place has been there for years, and has always been some type of club and that it is a beautiful place. He said there were issues with police problems, the same as a number of other clubs up and down Seneca.

JOHNSON out at 2:55 p.m.

MARNELL said the MAPC should be concerned with land use and added that they were not a "licensing board." He commented that the land use was the issue, in regards to whether it was a suitable place for a nightclub and not who owns or leases it. He said, notwithstanding, if he were one of the neighbors, he would hate to put up with what has been going on there and doesn't want the situation to get worse.

HENTZEN said the land use is appropriate and that there have been successful restaurants there for many years. He added that he had been by the location and that the pile of trash north of the fence was disgraceful. He said he was going to vote for denial of the application.

HILLMAN said he believes management of the current facility is the problem, and added that he was going to vote for denial of the application.

SHERMAN said he was going to vote to deny the application. He suggested the applicants conform to doing business to how the establishment was currently licensed. He said a new license would only make the situation worse than it is now.

CHAIRMAN DOWNING thanked officers from the Wichita Police Department for their presence and input at the meeting.

JOHN SCHLEGEL, PLANNING DIRECTOR, reminded the Commission to be prepared to elect a new Chair at the next meeting.

The Metropolitan Area Planning Department informally adjourned at 3:10 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the

Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____,
is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)